

ARTICLE APPEARED
ON PAGE A-15

NEW YORK TIMES
22 July 1985

How to Stop the Sale of Secrets Don't Go For Easy 'Solutions'

By Morton H. Halperin

WASHINGTON — The recent spate of spying cases has generated public pressure to do something. Congress has responded with ill-considered plans — for reinstituting the death penalty and vastly expanding the use of polygraph tests — that do not solve the problem but run the risk of creating the impression that the problem has been solved. More important, these proposals, included in the Defense Department authorization bill now before Congress, could lead to violations of fundamental rights.

Consider the death penalty. Most spies take the risks they do because they believe that they will not get caught — not, certainly, because they know that "only" life imprisonment and not death is the maximum punishment. Thus, clearly, the death penalty would not prevent espionage.

Polygraphs, which are notoriously unreliable, are an unwarranted invasion of privacy and can be deceived by those trained to do so. The Defense Department already has a pilot polygraph program that permits limited testing. Until the results of this experimental program are evaluated, there is no justification for the expanded use of polygraph machines.

If polygraphs and the death penalty would not solve the problem, what will? Most serious students of the issue agree that we should begin by reducing the amount of classified material and the number of clearances. When everything is classified, nothing is; when everyone has a clearance, no one has been adequately cleared. We need to drastically reduce the number of things that we try to keep secret so that we can effectively protect that information. We need to reduce the number of people who are cleared so that we can examine them seriously.

We also need to change the clearance process. When it was put into place just after World War II, it was directed at ferreting out Communists and other "subversives" seeking to enter the Government in order to spy for the Soviet Union. The focus was on the initial clearance process and on learning about the political beliefs and associations of the applicants. In recent years, however, almost all spies are motivated by money and recruited after they are given clearances. Thus, we should be doing periodic reviews of those who have been cleared and examining their finances rather than their politics.

We must also distinguish between the three different problems that are now grouped together and dealt with similarly by "counterintelligence" agencies. These three problems are spying for the Russians, leaking information to the press and working in support of foreign groups, such as the Salvadoran opposition, that the Government considers hostile.

Leaking to the press and working against American policy in places like Central America are naturally subjects of some concern to the Government, but they are not the same as spying, and we must stop treating them as if they were. Certainly, no one who cares seriously about civil liberties will support stricter counter-espionage laws unless we can begin to make these crucial distinctions.

Moreover, unless we can clearly isolate spying from other deceptively similar activity, there is little hope that we will catch many spies. The people conducting clearance reviews and investigating possible crimes

should be directed by people with a clear understanding of what information is likely to be of greatest value to the Soviet Union and which individuals are likely to have access to it.

Finally, any effective counterespionage measures must be consistent with the mandates of the Constitution and with our values and ideals. If they are not, they will drive the best of our public servants — people who would not, for example, submit to prepublication review requirements or polygraph tests — out of Government.

Congress and the Administration face an all too common choice. They can go with the "solutions" proposed in the Defense authorization — measures that are politically popular but would not work and would violate Constitutional rights. Alternatively, they can work for real changes that would help prevent espionage without trampling on basic principles. Considered in the long view, it shouldn't be a very hard choice. □

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